

## **REMARKS**

This communication is in response to the Final Office Action dated **June 25, 2008**. Each issue in the Final Office Action is addressed below.

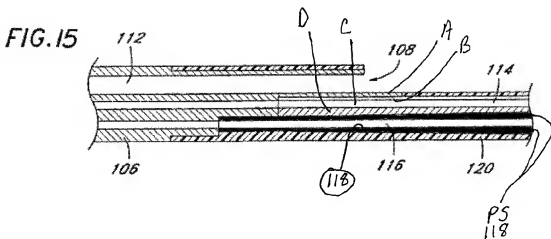
### ***§102 Rejections***

Claims 61, 63-65, 67, 69-73 were rejected under 35 USC §102(e) as being anticipated by Crocker et al. (US 5569184). Although the rejection uses §102(e), Applicant believes that the Examiner means §102(b). In the rejection, as to claims 61, 63-65, 67, 69, 71 and 73, it is asserted that Crocker (Figs 13-16) shows distal shaft 106, proximal metal hypotube 118, port 108 communicating with an inner shaft and defining guidewire lumen 112, heat shrinkable sleeve 120 having port 108 formed at least partially within the proximal shaft 118 (having lumen 116, see Fig. 12-14 and especially Fig. 15) and at least partially formed in the distal shaft 106. As to claims 70 and 72, it is asserted in the rejection that, from Fig. 15, in a broad sense, port 108 is formed in the distal shaft 106 and in the proximal shaft 118 as well.

Applicant respectfully disagrees with the rejection. Independent claim 61, upon which all the remaining claims depend, requires that “the port is positioned between the first and second ends of the heat shrinkable sleeve and **formed at least partially within the proximal shaft**.” The port 108 is not formed at all within what the rejection identifies as the proximal shaft 118.

In the rejection, Figure 15 is identified as showing a portion of a catheter of the reference which is asserted to anticipate claim 61. Shown below is a marked-up copy of figure 15 from the cited reference. Applicant has darkened the portion that the rejection has designated as the proximal shaft and Applicant has labeled it PS118 and 118 (circled). As can be seen, the proximal shaft defines lumen 116. It is asserted in the rejection that in a “broad sense” port 108 is formed at least partially within the proximal shaft 118.

In reference to the marked-up figure 15 below, as can be seen, the proximal shaft 118 (designated in the rejection and darkened by Application for illustration purposes) is separated from the port 108 by three layers, A, B and D, and one lumen, C. As such, at the very least, because of the four barriers between the port 118 and the proximal shaft 118, it can not be said that the port is “**formed at least partially within the proximal shaft**” as required by claim 61.



As stated in MPEP 2111.01(I) "The words of a claim must be given their 'plain meaning' unless such meaning is inconsistent with the specification." As illustrated above in marked-up figure 15 and taking the "plain meaning" of the claim language, it can not be said that port 108 is formed at least partially within the proximal shaft 118. This would be an unreasonable interpretation of the claim language which is well outside of the "plain meaning" of the claim language. As such, withdrawal of the rejection is respectfully requested.

**Conclusion**

Based on at least the above, Applicant respectfully submits that this application is in condition for allowance. Favorable consideration and prompt allowance of claims 61, 63-65, 67, 69-73 and 12-19 is requested. Reinstatement of the appropriate withdrawn claims is also requested. Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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Date: September 12, 2008

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